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2
3 **UNITED STATES DISTRICT COURT**
4 **NORTHERN DISTRICT OF CALIFORNIA**
5 **SAN JOSE DIVISION**

6 SAFRONIA DODD-OWENS, et al.,

7 Plaintiffs,

8 v.

9 KYPHON INC.,

10 Defendant.

CASE NO. CV 06 03988 JF

11 **NOTICE AND STIPULATION OF**
12 **DISMISSAL OF PLAINTIFF NATALIE**
13 **AMAYA'S CLAIMS AND [PROPOSED]**
14 **ORDER OF DISMISSAL**

15 **Judge: Hon. Jeremy Fogel**

16 Pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), the Parties hereby stipulate and agree to the
17 dismissal of all of Plaintiff Natalie Amaya's claims against Defendant Kyphon, Inc. in this matter.

18 The dismissal of these claims shall be with prejudice.

19 1. Ms Amaya is a Named Plaintiff in this putative class action.

20 2. Ms. Amaya has decided to dismiss all of her claims against Kyphon in this case
21 because she does not want to go through the rigors of litigation.

22 3. Ms. Amaya therefore requests that this Court dismiss all of her claims against
23 Kyphon in this action. *See* Affidavit of Natalie Amaya, attached hereto.

24 4. Ms. Amaya understands that this dismissal will be made with prejudice, meaning
25 that she will not have the opportunity to revive these claims. *Id.*

26 5. A class has not yet been certified in this case.

27 6. Moreover, each of the other six Plaintiffs is still willing to serve as Class
28 Representatives.

7. Accordingly, dismissal of Ms. Amaya's claims will not prejudice any members of
any class that is certified by the Court.

WHEREFORE, the Parties respectfully request that this Court enter an Order dismissing
all of Plaintiff Natalie Amaya's claims pending in this lawsuit with prejudice.

NOTICE AND STIPULATION OF DISMISSAL OF PLAINTIFF
NATALIE AMAYA'S CLAIMS AND PROPOSED ORDER

1
2 DATED: December 5, 2008

3 **SANFORD WITTELS & HEISLER, LLP**
4 **LAW OFFICES OF GRANT E. MORRIS**
5 **LITTON & GEONETTA, LLP**

6 By: /s/ Stefanie Roemer
7 Stefanie Roemer

8 Attorneys for Plaintiffs

9
10 DATED: December 5, 2008


11 **DLA PIPER LLP (US)**
12 **SEVERSON & WERSON**

13 By: /s/ Rhonda Nelson
14 Rhonda L. Nelson
15 Attorneys for Defendant KYPHON INC.

16
17 **[PROPOSED] ORDER**

18 GOOD CAUSE APPEARING to the satisfaction of the court, IT IS HEREBY
19 ORDERED that Plaintiff Natalie Amaya is dismissed from this case, with prejudice.

20 DATED: 12/19/08

21 
22 JEREMY FOGEL
23 U.S. District Court Judge

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28 NOTICE AND STIPULATION OF DISMISSAL OF PLAINTIFF
NATALIE AMAYA'S CLAIMS AND PROPOSED ORDER

CERTIFICATE OF SERVICE

I, the undersigned, declare as follows: I am employed at the Law Firm of Sanford, Wittels & Heisler, District of Columbia; I am over the age of eighteen years and not a party to the within entitled action; my business address is 1666 Connecticut Avenue, N.W., Suite 310.

I hereby certify that on December 5, 2008, the foregoing PLAINTIFF NATALIE AMAYA'S NOTICE OF DISMISSAL WITH PREJUDICE was filed electronically. Notice of filing will be sent to the following party by operation of the Court's electronic filing system. The parties may access this filing through the Court's system.

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(X) BY ELECTRONIC MAIL: I caused said document(s) to be delivered to the electronic addresses identified above.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on December 5, 2008.

/s/ Kate Gillespie

Kate Gillespie